

DISCUSSION OF THE AMENDMENT

Claims 14-38 are active in the present application. Claims 14-24 are presently withdrawn from active prosecution. Claims 1-12 are canceled claims. Claims 25-37 are new claims. Support for new Claim 25 is found in original Claims 9 and 1. Support for new Claim 26 is found in original Claim 11. Support for new Claim 27 is found in original Claim 12. Support for new Claim 28 is found in original Claim 2. Support for new Claim 29 is found in original Claim 3. Support for new Claim 30 is found in original Claim 4. Support for new Claim 31 is found in original Claim 5. Support for new Claim 32 is found in original Claim 6. Support for new Claim 33 is found in original Claim 8. Support for new Claim 34 is found on page 8, lines 22-30. Support for new Claim 35 is found on page 10, lines 12-32. Support for new Claim 36 is found in the paragraph bridging pages 12 and 13. Support for new Claim 37 is found on page 13, lines 10-11. Support for new Claim 38 is found in the examples.

No new matter is added.

REMARKS/ARGUMENTS

New independent Claim 25 is drawn to a surfactant-free aqueous suspension (i.e., “the suspension”) that is made by a process that includes suspending a hydrophobic, nanostructured particle in an organic solvent to form an organic suspension, then mixing the organic suspension with surfactant-free water. The hydrophobic, nanostructured particle (i.e., “the particle”) is present in an amount of from 0.01 to 1% by weight in the suspension. Applicants submit that the suspension of new Claim 25 is novel and not obvious over the art cited by the Office in the Office Action of August 5, 2008.

The Office rejected the previously presented claims as anticipated over a patent to Sekutowski (U.S. 6,156,327). The Office rejected previously presented Claim 10, which recited that the particle must be present in an amount of 0.10-2.5% by weight, over Sekutowski's disclosure of treatment no. 3 of Example 5. Example 5 discloses the preparation of a mixture of Translink 77, methanol and water. The Translink 77 is present in an amount of 12.4 lbs. whereas the water and alcohol are present in a total amount of approximately 102 lbs. The Translink 77 of treatment no. 3 of Example 5 of Sekutowski is present in an amount by weight of more than 1% by weight (i.e., based on the total weight of the composition - $12.5 \text{ lbs.} / ((100 \text{ gallon} \times 8.83 \text{ lbs./gallon}) + (2 \text{ gallons} \times 6.6 \text{ lbs/gallon}) + 12.5 \text{ lbs}) = 1.38\%$ by weight).

Applicants submit that new independent Claim 25 is novel over Sekutowski.

Sekutowski discloses that decreasing the amount of Translink 77 results in a less desirable composition. In fact, Sekutowski discloses that compositions containing greater amounts of Translink 77 are more effective at providing a resistance to spoilage. For example, Table VII in column 12 of Sekutowski discloses that the use of a suspension that includes relatively greater amounts of Translink 77 is more effective at reducing undesirable food spoilage in comparison to a composition containing a lesser amount of Translink 77.

Sekutowski therefore teaches away from the presently claimed invention in which the particle is present in a minimum amount that is less than the minimum amount disclosed in the Sekutowski patent. Applicants submit that those of ordinary skill in the art would not be led to the presently claimed invention from the disclosure of Sekutowski because Sekutowski discloses a trend whereby suspensions containing lesser amounts of Translink 77 are more likely to provide an undesirable increase in food spoilage.

Applicants submit that those of ordinary skill in the art would not desire to form a suspension having undesirable food spoilage properties and thus Sekutowski does not suggest suspensions containing particles in an amount of 1% by weight or less. In contrast Sekutowski teaches away from the presently claimed invention by showing that poor results are obtained when the amount of Translink 77 is relatively decreased.

REQUEST FOR REJOINDER

Present Claims 14-24 are withdrawn from active prosecution. Applicants request rejoinder and allowance of the withdrawn claims upon the Office's determination that the subject matter of Claim 25 is allowable. Because the withdrawn claims directly or indirectly depend from Claim 25, an indication of allowability for Claim 25 makes rejoinder and allowance of the withdrawn claims appropriate.

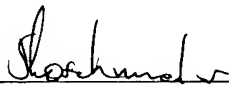
For the reasons discussed above in detail, Applicants request withdrawal of the rejection and the allowance of all now-pending claims.

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